

THE HONORABLE THOMAS S. ZILLY



08-CV-01037-IFP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WEYERHAEUSER COMPANY, a
Washington corporation,

Plaintiff,

v.

THE INSURANCE COMPANY OF THE
STATE OF PENNSYLVANIA, a Pennsylvania
corporation,

Defendant.

THE INSURANCE COMPANY OF THE
STATE OF PENNSYLVANIA, a Pennsylvania
corporation,

Third Party Plaintiff,

v.

FIREMAN'S FUND INSURANCE
COMPANY, a California corporation,
APPALACHIAN INSURANCE COMPANY,
a Rhode Island corporation, and EMPLOYERS
SURPLUS LINES INSURANCE COMPANY,
a Delaware corporation.

Third Party Defendants.

Case No.: 2:08-cv-01037-TSZ

STIPULATION AND ~~PROPOSED~~ ORDER RE: FILING THIRD PARTY
DEFENDANT FIREMAN'S FUND
INSURANCE COMPANY'S MOTION
FOR SUMMARY JUDGMENT TO
DISMISS ALL CLAIMS UNDER SEAL

NOTED ON MOTION CALENDAR:
April 28, 2009

STIPULATION AND ~~PROPOSED~~ ORDER RE: FILING THIRD
PARTY DEFENDANT FIREMAN'S FUND INSURANCE
COMPANY'S MOTION FOR SUMMARY JUDGMENT TO
DISMISS ALL CLAIMS UNDER SEAL - 1

(Case No. 2:08-cv-01037-TSZ)
SEATTLE\822533\1 227962.000

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STIPULATION

In accordance with this Court's April 6, 2009 Protective Order [dkt. #41] and Local Rule CR 5(g)(2), the parties hereby stipulate and agree that the following documents, not yet filed, should be filed under seal:

- Third Party Defendant Fireman's Fund Insurance Company's Motion for Summary Judgment to Dismiss All Claims; *docket no. 43*
- Declaration of Mara Lewis in Support of Third Party Defendant Fireman's Fund Insurance Company's Motion for Summary Judgment to Dismiss All Claims; *docket no. 44*
A, B,
- Exhibits *A*, C, D, E, and F, to the Declaration of Mara Lewis in Support of Third Party Defendant Fireman's Fund Insurance Company's Motion for Summary Judgment to Dismiss All Claims; *docket no. 44-2* and
- Exhibit A to the Declaration of Jodi McDougall in Support of Third Party Defendant Fireman's Fund Insurance Company's Motion for Summary Judgment to Dismiss All Claims. *docket no. 46*

The above referenced documents contain information that the parties agree should be treated as confidential, including the following:

1. The names of the underlying plaintiffs, costs of defense of the underlying cases, the settlement amounts in the underlying cases, and the allegations and proof in the underlying cases.
2. The names of and confidential information about underlying personal injury plaintiffs who are not parties to this action and who entered into confidential settlements with Weyerhaeuser.

As set forth in the prior Stipulation [dkt. #41], public disclosure of information regarding the costs of defense and settlement amounts in prior cases would severely prejudice

STIPULATION AND ~~PROPOSED~~ ORDER RE: FILING THIRD PARTY DEFENDANT FIREMAN'S FUND INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT TO DISMISS ALL CLAIMS UNDER SEAL - 2

(Case No. 2:08-cv-01037-TSZ)
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Weyerhaeuser and its insurers in ongoing or future actions, in that underlying plaintiffs' counsel could gain a strategic advantage from such information. Moreover, the settlement amounts are subject to confidentiality terms in the underlying settlement agreements, and public disclosure in this action could result in a breach of such terms, which would violate the privacy rights of the underlying plaintiffs. The disclosure of such information would also be contrary to the Washington public policy favoring the settlement of litigation, in that the prospect of disturbing the confidentiality of such settlements would diminish the benefit of settlement and discourage future settlements.

Fireman's Fund will file a redacted version of its Motion for Summary Judgment to Dismiss All Claims to be part of the public record. *See docket no. 48.*

STIPULATED and AGREED TO this 28th day of April, 2009.

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/s/ Franklin D. Cordell

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STIPULATION AND ~~PROPOSED~~ ORDER RE: FILING THIRD
PARTY DEFENDANT FIREMAN'S FUND INSURANCE
COMPANY'S MOTION FOR SUMMARY JUDGMENT TO
DISMISS ALL CLAIMS UNDER SEAL - 3

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2 /s Molly Siebert Eckman

/s T. Arlen Rumsey

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5 Attorneys for Third-Party Defendant
6 Fireman's Fund Insurance Company

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Employers Surplus Lines Ins. Co.

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STIPULATION AND ~~PROPOSED~~ ORDER RE: FILING THIRD
PARTY DEFENDANT FIREMAN'S FUND INSURANCE
COMPANY'S MOTION FOR SUMMARY JUDGMENT TO
DISMISS ALL CLAIMS UNDER SEAL - 4

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~~PROPOSED~~ ORDER

Based on the foregoing, ^{stipulated motion, docket no. 42, which is hereby GRANTED,} the Court orders that Third Party Defendant Fireman's Fund Insurance Company's Motion for Summary Judgment to Dismiss All Claims, ^{docket no. 43,} as well as the ^{docket nos. 44, 44-2, & 46} enumerated declaration and exhibits in support thereof, shall be filed under seal. Fireman's Fund's ^{redacted motion for summary judgment,} and remain ^{docket no. 48, shall be removed from the Court's motion calendar as duplicative of docket no. 43.}

DATED this 6th day of May, 2009.


Thomas S. Zilly
United States District Judge

STIPULATION AND ~~PROPOSED~~ ORDER RE: FILING THIRD PARTY DEFENDANT FIREMAN'S FUND INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT TO DISMISS ALL CLAIMS UNDER SEAL - 1

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